

# United States Patent and Tradem RK Office



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,850	05/29/2001	Robert Gary	10010459-1	8299
022878 75	590 05/24/2006		EXAM	INER
AGILENT TECH	HNOLOGIES, INC.		TIV, BAC	CKHEAN
INTELLECTUAL		STRATION, LEGAL DEPT.	ART UNIT	PAPER NUMBER
P.O. BOX 7599 M/S DL429 LOVELAND, CO	80537-0599	JUN 05 2006 JUN 05 2006	2151 DATE MAILED: 05/24/200	6

# Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 761 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 761 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

**EXAMINER** 

# NOTICE OF ALLOWANCE AND FEE(S) DUE

022878

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LOVELAND, CO 80537-0599

05/24/2006

AGILENT TECHNOLOGIES, INC. INTELLECTUAL PROPERTY ADMINISTRATION, LEGAL DEPT. P.O. BOX 7599 M/S DL429

2151

DATE MAILED: 05/24/2006

TIV, BACKHEAN

ART UNIT PAPER NUMBER

 APPLICATION NO.
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 09/867,850
 05/29/2001
 Robert Gary
 10010459-1
 8299

TITLE OF INVENTION: SYSTEM AND METHOD FOR MEASURING USAGE OF GATEWAY PROCESSES UTILIZED IN MANAGING NETWORK -ELEMENTS

٠L	APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
	nonprovisional	NO	\$1400	\$0	\$1400	08/24/2006

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

## HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status above is to be removed, check box 5b on Part B Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.
- II. PART B FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.
- III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE

Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450

or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FFF and PUBLICATION FFF (if required). Blocks 1 through 5 should be completed

appropriate. All further conindicated unless corrected maintenance fee notification	rrespondence including the below or directed otherwise as.	Patent, advance of in Block 1, by (a	rders and notificati a) specifying a new	on of maintenance fees correspondence addres	will be mailed to the curren s; and/or (b) indicating a sep	t correspondence address as parate "FEE ADDRESS" for
CURRENT CORRESPONDENCE	CE ADDRESS (Note: Use Block 1 for	any change of address)		Note: A certificate o Fee(s) Transmittal. T papers. Each addition	f mailing can only be used f his certificate cannot be used hal paper, such as an assignm te of mailing or transmission.	or domestic mailings of the for any other accompanying ent or formal drawing, must
AGILENT TECH	90 05/24/2006 INOLOGIES, INC. PROPERTY ADMINI	STRATION, I	LEGAL DEPT.	Ce	te of mailing or transmission.  Pertificate of Mailing or Tran  this Fee(s) Transmittal is bein  with sufficient postage for fin  I Stop ISSUE FEE address  PTO (571) 273-2885, on the	smission
LOVELAND, CO	80537-0599			·		(Depositor's name)
,						(Signature)
				L		(Date)
APPLICATION NO.	FILING DATE		FIRST NAMED INV	ENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,850	05/29/2001	-	Robert Gary	7	10010459-1	8299
ELEMENTS				EWAY PROCESSES U	TILIZED IN MANAGING N	ETWORK
APPLN. TYPE	SMALL ENTITY	ISSUE F	EE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	)	\$0	\$1400	08/24/2006
EXAM	IINER	ART UN	IT	CLASS-SUBCLASS		
TIV, BAC	CKHEAN	2151		709-224000		
"Fee Address" indicat PTO/SB/47; Rev 03-02 (Number is required.  3. ASSIGNEE NAME AND PLEASE NOTE: Unless	ion (or "Fee Address" Indicator more recent) attached. Use RESIDENCE DATA TO B an assignee is identified be 37 CFR 3.11. Completion of	e of a Customer  E PRINTED ON T	(1) the names o or agents OR, al (2) the name of registered attorn 2 registered pate listed, no name of THE PATENT (printle) data will appear or a substitute for fil	a single firm (having as ey or agent) and the nar attorneys or agents. If will be printed.  It or type)	a member a 2 nes of up to f no name is 3 nee is identified below, the d	locument has been filed for
Please check the appropriate	assignee category or catego	ries (will not be pri	inted on the patent)	: Individual C	Corporation or other private gr	oup entity Government
4a. The following fee(s) are  Issue Fee  Publication Fee (No si  Advance Order - # of	enclosed: mall entity discount permitte Copies	d)	Payment by cre	amount of the fee(s) is eneed to card. Form PTO-203 hereby authorized by charge to the card.	8 is attached.  arge the required fee(s), or cre	edit any overpayment, to ra copy of this form).
	(from status indicated above MALL ENTITY status. See		☐ b. Applicant is	no longer claiming SMA	LL ENTITY status. See 37 C	
The Director of the USPTO in NOTE: The Issue Fee and Punterest as shown by the reco	s requested to apply the Issu ublication Fee (if required) w rds of the United States Pate	e Fee and Publicat vill not be accepted int and Trademark	ion Fee (if any) or to from anyone other Office.	to re-apply any previous than the applicant; a reg	ly paid issue fee to the application is the strong of the	ation identified above. the assignee or other party in
Authorized Signature				Date		
Typed or printed name					No	
This collection of information application. Confidentialing the completed applications are completed applications.	n is required by 37 CFR 1.3 by is governed by 35 U.S.C.	11. The information	n is required to obta	in or retain a benefit by is estimated to take 12	the public which is to file (an minutes to complete, includir	d by the USPTO to process)

submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

	Application No.	Applicant(s)	
	09/867,850	GARY, ROBERT	
Notice of Allowability	Examiner	Art Unit	
	Backhean Tiv	2151	
The MAILING DATE of this communication appeal All claims being allowable, PROSECUTION ON THE MERITS IS herewith (or previously mailed), a Notice of Allowance (PTOL-85) NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT R of the Office or upon petition by the applicant. See 37 CFR 1.313	(OR REMAINS) CLOSED in this app or other appropriate communication GHTS. This application is subject to	plication. If not included will be mailed in due course. THIS	
1. This communication is responsive to <u>2/6/06</u> .			
2. The allowed claim(s) is/are 1,2,4,6,7,11,14,19,21,22,25,29	-32,34,41,44,55,59 and 65-70.		
3.	e been received. e been received in Application No currents have been received in this of this communication to file a reply lENT of this application.  litted. Note the attached EXAMINER es reason(s) why the oath or declarate st be submitted. son's Patent Drawing Review ( PTO- es Amendment / Comment or in the Com	national stage application from the complying with the requirements  'S AMENDMENT or NOTICE OF tion is deficient.  948) attached  Office action of	
Identifying indicia such as the application number (see 37 CFR 1 each sheet. Replacement sheet(s) should be labeled as such in t	.84(c)) should be written on the drawii he header according to 37 CFR 1.121(	d).	
6. DEPOSIT OF and/or INFORMATION about the depo attached Examiner's comment regarding REQUIREMENT	SIT OF BIOLOGICAL MATERIAL INFORMED THE DEPOSIT OF BIOLOGIC	nust be submitted. Note the AL MATERIAL	
Attachment(s)			
1. X Notice of References Cited (PTO-892)		Patent Application (PTO-152)	
2. Notice of Draftperson's Patent Drawing Review (PTO-948)	<ol> <li>Interview Summary Paper No./Mail Da</li> </ol>		
3. Information Disclosure Statements (PTO-1449 or PTO/SB/0 Paper No./Mail Date	08), 7. Examiner's Amenda	ment/Comment	
4. Examiner's Comment Regarding Requirement for Deposit of Biological Material	<ol> <li>8.</li></ol>	ent of Reasons for Allowance	
		Khanh Dinh	
		Khanh Dinh Primary Examiner	

Application/Control Number: 09/867,850

Art Unit: 2151

## **Detailed Action**

Claims 1,2,4,6,7,11,14,19,21,22,25,29-32,34,41,44,55,59,65-70 are pending in this application. Claims 3,5,8-10,12,13,15-18,20,23,24,26-28,33,35-40,42,43,45-54,56-58,60-64,71 have been cancelled.

# Allowable Subject Matter

Claims 1,2,4,6,7,11,14,19,21,22,25,29-32,34,41,44,55,59,65-70 allowed. The following is a statement of reasons for the indication of allowable subject matter. Leong in view of Grabelsky does not teach a management system capable of determining if at least one gateway is at a pre-selected capacity based on the measured amount of processing performed.

# Response to Arguments

The arguments filed on 2/6/06 are persuasive.

#### Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Backhean Tiv whose telephone number is (571)272-3941. The examiner can normally be reached on 9 A.M.-12 P.M. and 1 -6 P.M. Monday-Friday.

Application/Control Number: 09/867,850 Page 3

Art Unit: 2151

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Backhean Tiv 2151 5/15/06

	Application No.	Applicant(s)			
Interview Summary	09/867,850	GARY, ROBERT			
interview Summary	Examiner	Art Unit			
	Backhean Tiv	2151			
All participants (applicant, applicant's representative, PTC	) personnel):				
(1) Backhean Tiv.	(3) Jacob Erlich.				
(2)	(4)				
Date of Interview: 11 May 2006.					
Type: a)⊠ Telephonic b)□ Video Conference c)□ Personal [copy given to: 1)□ applicant	2) applicant's represent	ative]			
Exhibit shown or demonstration conducted: d) Yes If Yes, brief description:	e)⊠ No.				
Claim(s) discussed: <u>none</u> .					
Identification of prior art discussed: none.					
Agreement with respect to the claims f)⊠ was reached.	g) was not reached. h)	□ N/A.			
reached, or any other comments: <u>The Terminal Disclaims</u>	Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: <u>The Terminal Disclaimer filed on 8/24/05 is correct</u> .				
(A fuller description, if necessary, and a copy of the amer allowable, if available, must be attached. Also, where no allowable is available, a summary thereof must be attach	copy of the amendments the	er agreed would render the claims hat would render the claims			
THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.					
	:				
Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.	Examiner's	signature, if required			

#### **Summary of Record of Interview Requirements**

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

#### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

- A complete and proper recordation of the substance of any interview should include at least the following applicable items:
- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
  - (The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- by dispropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### **Examiner to Check for Accuracy**

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

# Notice of References Cited Application/Control No. O9/867,850 Examiner Backhean Tiv Applicant(s)/Patent Under Reexamination GARY, ROBERT Page 1 of 2

## **U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	Α	US-5,615,323 A	03-1997	Engel et al.	345/440
*	В	US-5,742,762 A	04-1998	Scholl et al.	709/200
*	С	US-6,047,279 A	04-2000	Barrack et al.	706/60
*	D	US-6,167,403 A	12-2000	Whitmire et al.	707/10
*	E	US-6,295,292 B1	09-2001	Voit et al.	370/352
*	F	US-2002/0165956 A1	11-2002	Phaal, Peter	709/224
*	G	US-2003/0009543 A1	01-2003	Gupta, Ankur	709/223
*	н	US-6,513,129 B1	01-2003	Tentij et al.	714/4
*	1	US-6,664,978 B1	12-2003	Kekic et al.	. 715/733
*	J	US-6,687,748 B1	02-2004	Zhang et al.	709/223
*	K	US-6,744,780 B1	06-2004	Gu et al.	370/450
*	L	US-6,771,673 B1	08-2004	Baum et al.	370/535
*	м	US-6,868,399 B1	03-2005	Short et al.	705/34

## FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	2					
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#### **NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
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\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)

Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

# Notice of References Cited Application/Control No. 09/867,850 Examiner Backhean Tiv Applicant(s)/Patent Under Reexamination GARY, ROBERT Page 2 of 2

# U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name .	Classification
*	Α	US-5,079,765 A	01-1992	Nakamura, Yasuo	370/401
*	В	US-6,011,792 A	01-2000	Miloslavsky, Alec	370/352
*	С	US-6,269,398 B1	07-2001	Leong et al.	709/224
*	D	US-6,678,250 B1	01-2004	Grabelsky et al.	370/241
*	E	US-6,772,221 B1	08-2004	Ratcliff et al.	709/238
*	F	US-6,775,267 B1	08-2004	Kung et al.	370/352
	G	US-			
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## FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
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	Т					

## NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
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\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)

Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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U. S. DEPARTMENT OF COMMERCE IC2100 RANDOLPH

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AN EQUAL OPPORTUNITY EMPLOYER





